



~~TRANSCRIPT OF RECORD.~~

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 882.

*Argued Nov. 10.*

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THE AMERICAN SUGAR REFINING COMPANY,  
APPELLANT.

vs.

THE STEAMSHIP "G. R. BOOTH," HER ENGINES, &c.,  
WM. H. SAVILLE, CLAIMANT.

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ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE SECOND CIRCUIT.

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FILED APRIL 15, 1896.

(16,256.)

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(16,256.)

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 966.

THE AMERICAN SUGAR REFINING COMPANY,  
APPELLANT,

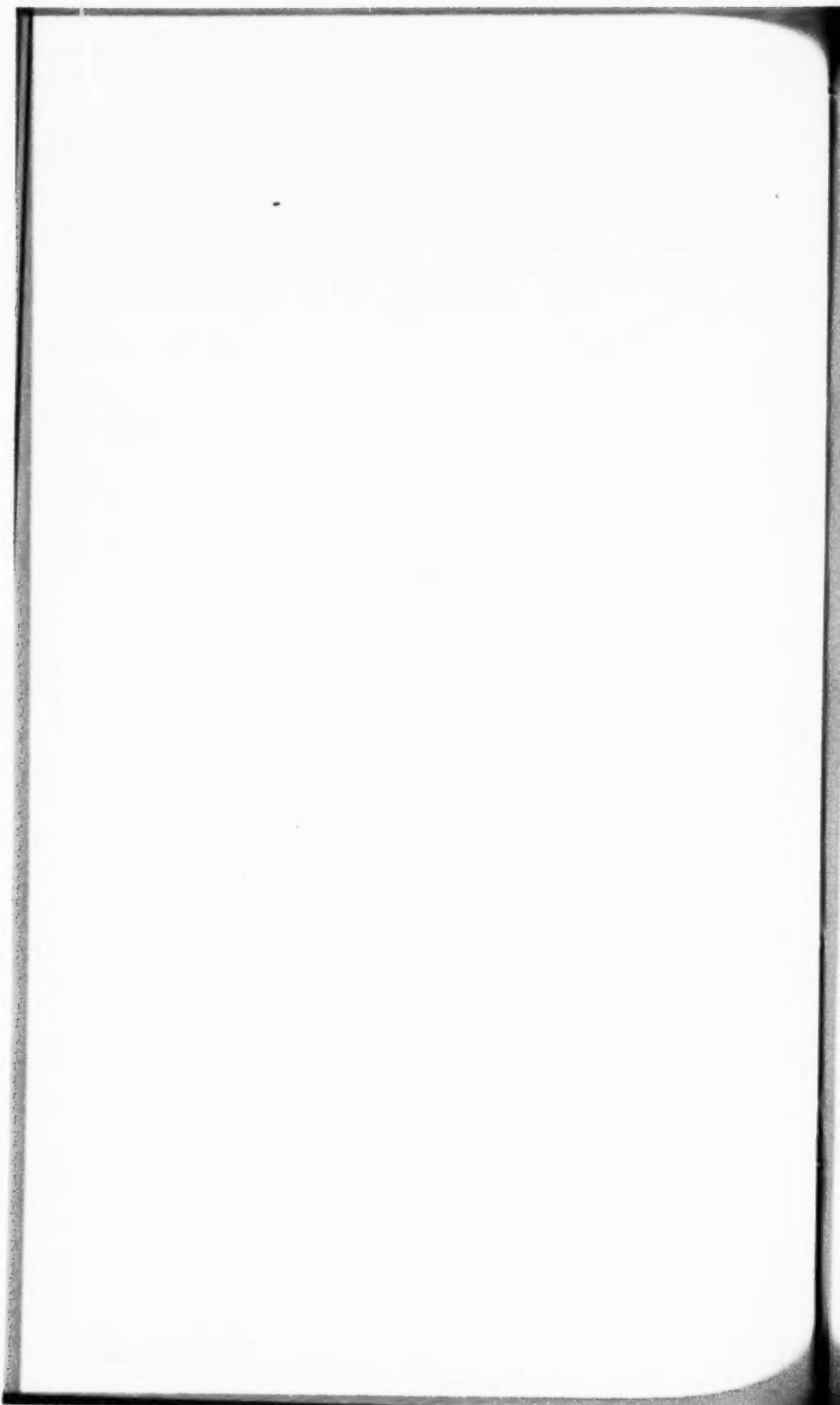
vs.

THE STEAMSHIP "G. R. BOOTH," HER ENGINES, &c.;  
WM. H. SAVILLE, CLAIMANT.ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE SECOND CIRCUIT.

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## 1 U. S. Circuit Court of Appeals, Second Circuit.

THE AMERICAN SUGAR REFINING COMPANY, Libellant & }  
 Appellant,  
 against }  
 THE STEAMSHIP G. R. BOOTH, HER ENGINES, ETC., and WILLIAM  
 H. SAVILLE, Claimant & Appellee.

A decree in favor of the claimant, dismissing the libel in this cause for damage to cargo, having been made by the district court of the United States for the southern district of New York, and an appeal having been taken therefrom to this court, and the cause having come on for final hearing, certain questions of law arose concerning which this court desires the instruction of the Supreme Court of the United States for its proper decision. The facts out of which the questions arose are as follows:

*Statement of Facts.*

On the 14th day of July, 1891, the steamship "G. R. Booth," a large sea-worthy steel vessel, was lying at the dock in the waters of the harbor of New York, discharging a general cargo, which had been laden on board at Hamburg for transportation to and delivery at New York city. Part of the cargo laden on board at Hamburg consisted of twenty cases of detonators. Detonators are blasting caps used to explode dynamite or gun-cotton, and consist of a copper cap packed with fulminate of mercury. In use the cap is placed in contact with dynamite; a fuse is pushed into the cap until it meets the packing; the fuse is lighted, and when the fire reaches the fulminate it explodes it, thus exploding the dynamite. The detonators were made in Germany and were packed according to the regulations prescribed by German law, adopted and enforced for the purpose of eliminating risk of danger in handling and transporting them. When thus packed the immunity from danger of an accidental explosion is supposed to be complete, and they are transported and handled like ordinary merchandise by carriers and truckmen without the use of any special precautions to avoid risk. They do not explode when subjected to violent shock as when thrown from such a height above the ground as to shatter in fragments the cases in which they are packed. They were customarily stowed and transported in vessels like ordinary merchandise, indiscriminately with the other cargo, and until the present occurrence, although millions of cases had been shipped and carried to all parts of the world, no accident had happened, so far as is known. The detonators were stowed with other cargo in afterhold No. 4. While the steamship was being unladen one of the cases exploded, making a large hole in the side of the ship, in the No. 4 hold, besides doing other damage. In consequence of the opening thus made in the ship's side, sea water rapidly entered in the No. 4 hold, beyond the control of the capacity of the pumps, and

passed from the No. 4 hold through the partition into No. 3 hold. In No. 3 hold there was cargo belonging to the libellants, consisting of sugar, which had not as yet been discharged. The sea water thus entering the hold damaged the sugar extensively. The boxes

of detonators were stowed and handled in the usual way and  
3 the explosion occurred purely by accident and without any fault or negligence on the part of any person engaged in transporting them or in discharging the cargo. The bill of lading under which the sugar of the libellant was carried contained the following clause: "The ship or carrier shall not be liable for loss or damage occasioned by the perils of the sea or other waters; by fire, from any cause or wheresoever occurring; by barratry of the master or crew; by enemies, pirates, robbers, or thieves; by arrest and restraint of princes, rulers, or people; by explosion, bursting of boilers, breakage of shafts or any latent defect in hull, machinery, or appurtenances; by collision, stranding, or other accidents of navigation of whatsoever kind."

Upon these facts the court desires instructions upon the following question of law, viz: Whether the damage to libellant's sugar, caused by the sea water which entered the ship through the hole made in her side by the explosion, without her fault, is a "loss or damage occasioned by perils of the sea or other waters" or by "an accident of navigation of whatsoever kind" within the above-mentioned exceptions in the bill of lading.

Dated April 6th, 1896.

WM. J. WALLACE,  
E. HENRY LACOMBE,  
N. SHIPMAN,

*Circuit Judges.*

4 [Endorsed:] U. S. cir. et. of appeals, second cir. The American Sugar Refining Co., libellant & appellant, ag't The Steamship G. R. Booth, her engines, etc., and William H. Saville, claimant & appellee. Statement of facts and certificate. United States circuit court of appeals, second circuit. Filed Apr. 7, 1896. James C. Reed, clerk.

5 UNITED STATES OF AMERICA, }  
Second Circuit, } ss:

I, James C. Reed, clerk of the United States circuit court of appeals for the second circuit, do hereby certify that the foregoing certificate in the case entitled The American Sugar Refining Company, libellant and appellant, vs. The Steamship C. R. Booth, her engines, etc.—William H. Saville, claimant and appellee—was duly filed and entered of record in my office by order of said court on the 7th day of April, 1896, and, as directed by said court, the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said United States circuit court of appeals for

the second circuit, at the city of New York, in the southern district of the State of New York, this 7th day of April, in the year of our Lord one thousand eight hundred and ninety-six, and of the Independence of the United States the one hundred and twentieth.

[Seal United States Circuit Court of Appeals, Second Circuit.]

JAMES C. REED,  
*Clerk United States Circuit Court of Appeals  
for the Second Circuit.*

6 [Endorsed:] U. S. circuit court of appeals, second circuit.  
The American Sugar Refining Company *vs.* The Steamship G. R. Booth, her engines, etc., and William H. Saville. Statement of facts & certificate.

Endorsed on cover: Case No. 16,256. U. S. circuit court of appeals, 2nd circuit. Term No., 966. The American Sugar Refining Company, appellant, *vs.* The Steamship "G. R. Booth," her engines, &c.; Wm. H. Saville, claimant. Certificate. Filed April 15th, 1896.